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Honorable Judge Timothy W. Dore  
Hearing Location: Seattle  
Hearing Date: 9/11/2020  
Hearing Time: 9:30 A.M.  
Response Date: 9/4/2020

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON

**IN RE**

Nicholas Clifton Barnard,  
  
**DEBTOR.**

**CASE NO.** 20-11870 – TWD

**CHAPTER 7**

**RESPONSE OF SANTANDER  
CONSUMER USA INC. TO DEBTOR'S  
MOTION TO REDEEM COLLATERAL**

Santander Consumer USA Inc. (Creditor), a secured creditor in the above matter, in response to the Debtor's motion to redeem the 2013 Ford C-Max VIN: 1FADP5CU7DL531019 ("Vehicle") by its attorneys, James K. Miersma and McCarthy Holthus, LLP, responds and objects to the Debtors' motion for the following reasons:

The Debtor's proposed redemption amount of \$2,400.00 does not reflect a fair market value. The \$2,400.00 valuation proposed by Debtor appears to be based on a Kelly Blue Book valuation to a private party in good condition being reduced by costs to repair the current damage to the vehicle. (See Debtor's Vehicle Condition/Valuation Report, filed by Debtor as Exhibit A and B to the Motion to Redeem Collateral, Docket 15.) Under the provisions of 11 USC 506 the starting point for valuation of the collateral should be retail value.

In addition, it appears that Debtor's Exhibit B suggests that the vehicle was involved in an accident and the Debtor is seeking to reduce the value by the amount it will take to repair the accident damage. If, in fact, there was an accident, there is no information provided explaining

1 whether or not an insurance claim was filed and what insurance proceeds were recovered by the  
2 Debtor. If no claims were filed, there is no explanation for why no claim was filed. The overall  
3 valuation of the Vehicle should not be reduced if the Debtor chose not to file an insurance claim  
4 if there was an accident.  
5

6 Creditor values this vehicle at \$8,050.00 based on the attached N.A.D.A. (See attached  
7 N.A.D.A. as Exhibit 1). This valuation factors in the mileage on the vehicle. This valuation uses  
8 the retail valuation as prescribed in 11 USC 506.  
9

10 Without an actual inspection of the Vehicle, further information on whether there was an  
11 accident and resulting insurance proceeds, or additional explanation on why the Debtor's  
12 proposed value is more reliable than Creditor's, the Debtor's value is insufficient to sustain this  
13 motion and should be denied.  
14

### 15 CONCLUSION

16 Because the Debtor has provided an insufficient valuation of \$2,400.00 on the vehicle,  
17 the Debtor's motion should be denied unless some reasonable and fair market value of the  
18 vehicle can be determined.  
19  
20

21 Dated: 8/26/2020

McCarthy & Holthus, LLP

22  
23 By: /s/ James K. Miersma

24 James K. Miersma  
25 Attorney for Respondent  
26 Santander Consumer USA Inc., its  
27 assignees and/or successors, by and  
28 through its servicing agent Stewart,  
29 Zlimen & Jungers, Ltd.

**CERTIFICATE OF SERVICE**

On 8/26/2020, I served the foregoing **OPPOSITION TO DEBTOR'S MOTION FOR VALUATION OF SECURITY** on the following individuals by electronic means through the Court's ECF program

**TRUSTEE**

Ronald G. Brown  
rgblaw@nwlinc.com

**DEBTOR(S) COUNSEL**

Michelle Carmody Kaplan  
michelle@kaplanlawpllc.com

**I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.**

/s/ Andrei Mihai

Andrei Mihai

On 8/26/2020, I served the foregoing **OPPOSITION TO DEBTOR'S MOTION FOR VALUATION OF SECURITY** on the following individuals by depositing true copies thereof in the United States mail at San Diego, California, enclosed in a sealed envelope, with postage paid, addressed as follows:

**DEBTOR(S)**

Nicholas Clifton Barnard, 6806 Oswego PL NE #101, Seattle, WA 98115

**I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.**

Dated: 8/26/2020

/s/ Hue Banh

Hue Banh